

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

TIMOTHY PAUL MARTIN,

Petitioner,

VS.

GARY JOHNSON,

Respondent.

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CIVIL ACTION NO. C-97-414

**ORDER ADOPTING AMENDED MEMORANDUM AND  
RECOMMENDATION TO DENY WITHOUT  
PREJUDICE PETITIONER'S MOTION TO REOPEN**


On January 11, 2010, United States Magistrate Judge B. Janice Ellington signed a Memorandum and Recommendation recommending that petitioner's motion for relief from judgment (D.E. 63) be denied without prejudice so that petitioner may seek the permission of the circuit court to raise his claims. The Memorandum and Recommendation recommended further that a certificate of appealability be denied. On January 28, 2010, petitioner filed Objections to the Magistrate's Recommendations.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and petitioner's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, it is ORDERED that petitioner's motion for relief from judgment is denied without prejudice so that petitioner may seek the permission of the circuit court to raise his claims. Certificate of appealability is denied.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 4th day of February, 2010.

  
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Janis Graham Jack  
United States District Judge